



**Ninety-Eighth Legislature - First Session - 2003**  
**Committee Statement**  
**LB 629**

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**Hearing Date:** February 21, 2003

**Committee On:** Judiciary

**Introducer(s):** (Landis)

**Title:** Adopt the Uniform Child Custody Jurisdiction and Enforcement Act and repeal the Nebraska Child Custody Jurisdiction Act

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**Roll Call Vote – Final Committee Action:**

Advanced to General File

X Advanced to General File with Amendments

Indefinitely Postponed

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**Vote Results:**

7	Yes	Senators Brashear, Chambers, Foley, Mines, Pedersen, Quandahl, Tyson
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No

Present, not voting

1	Absent	Senator Mossey
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**Proponents:**

Senator David Landis

Michael Kerr

Eileen Reilly Buzzello

Tara Muir

**Representing:**

Introducer

National Conference of Commissioners on  
Uniform State Laws

Nebraska State Bar Association

Nebraska Domestic Violence Sexual Assault  
Coalition

**Opponents:**

**Representing:**

**Neutral:**

**Representing:**

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**Summary of purpose and/or changes:**

In 1968 the Uniform Law Commissioners (ULC) promulgated the Uniform Child Custody Jurisdiction Act (UCCJA). All states have a version of the UCCJA. Nebraska adopted its version in 1979 and is codified at sections 43-1201 to 43-1225.

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The purpose of the UCCJA, as stated in section 43-1201, is to avoid jurisdictional competition between states with regard to child custody orders and to promote cooperation between states so that a custody decree from a state is respected in other states.

As codified in section 43-1203, there are four general situations under the UCCJA in which a court will take jurisdiction in a child custody dispute. These are 1) the forum-state is the home state of the child; 2) there exists a significant connection between the forum-state and the parties to a child custody dispute; 3) there exists an emergency in that the child is present in the forum-state and the child's welfare is threatened; and, 4) the child is in the forum-state and there is no other state with a basis to take jurisdiction. The corollary sections of the UCCJA contain the process for Nebraska courts to follow when determining custody and facing out of state orders.

Legislative Bill 629 is the result of the 1997 ULC revision of the UCCJA. Such revision is entitled the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA). The UCCJEA replaces the UCCJA, but maintains many of the original provisions. The following is a summary of the major changes contained in the bill.

***Home state priority:***

The bill (in sections 13 to 15) provides that a Nebraska court, if Nebraska is not the home state of the child, will defer to the home state in taking jurisdiction over a child custody dispute. Temporary emergency jurisdiction may be taken, but only long enough to secure the safety of the threatened person and to transfer the proceeding to the home state, or if none, to a state with another ground for jurisdiction. Under current law, emergency jurisdiction has the same effect as home state jurisdiction. The bill would acknowledge a preference for home state jurisdiction by limiting temporary emergency jurisdiction

***Emergency Jurisdiction:***

The bill (in section 16) provides for temporary emergency jurisdiction that can become continuing jurisdiction only if no other state with grounds for continuing jurisdiction can be found or, if found, declines to take jurisdiction. The current statutory requirements that the child must be present in Nebraska and have been abandoned, mistreated or abused are still required to justify a Nebraska court taking of emergency jurisdiction. The bill adds the grounds of threats to siblings or a parent as bases to trigger the taking of emergency jurisdiction.

***Continuing Exclusive Jurisdiction:***

The bill (in section 14) also provides for continuing exclusive jurisdiction. If a Nebraska court takes jurisdiction over a child custody dispute, it retains jurisdiction so long as the parties maintains a significant connection with Nebraska or until all parties have moved away from the state. In contrast, the current law allows jurisdiction to change if the initial ground for taking jurisdiction ceases to exist. For instance, if Nebraska takes jurisdiction over a child custody dispute because it is the home state of the child, and the child subsequently establishes a new home state, jurisdiction can change to the new home state, even if one parent remains in Nebraska. LB 629 would not allow the jurisdiction to shift in this fashion, keeping it in Nebraska so long as the parent remains there.

The bill contains a provision in which a Nebraska court (section 19) may decline to take jurisdiction if it determines that it is an inconvenient forum under the circumstances and that a court of another state is a more appropriate forum.

***Enforcement of existing custody and visitation orders:***

The bill (sections 23 to 39) also adds enforcement provisions to the current jurisdictional provisions and provides that Nebraska courts may enforce a custody or visitation order from another state that conforms substantially with Nebraska law. An order from a state that has continuing exclusive jurisdiction will be recognized and enforced in this state.

The bill proposes the following procedure in which to enforce out of state custody and visitation orders. First, a party must register the out-of-state order before a Nebraska court. If such registration is not contested, the registered order may be enforced by any means available to enforce a domestic order. This would ordinarily mean using the contempt powers of the court to assure that the custody or visitation order is honored by the parent subject to it.

The bill contains an expedited remedy. At a hearing in which a litigant is seeking to enforce an out of state order, upon receipt of a verified copy of an order, the court may order the party who has physical custody of the child to submit to an immediate hearing (the next judicial day unless impossible) for enforcement. The court may rule with respect to enforcement at the hearing, although there are provisions to allow for extended hearings and standards to contest enforcement.

Additionally, if there is danger to a child or if it appears that the child will be removed from the enforcing jurisdiction, a petition may also be filed for a warrant to take physical custody of the child along with a petition for an expedited proceeding. If the warrant issues, law enforcement officers will serve the warrant and obtain physical custody of the child.

As a last enforcement device, the bill provides that prosecutors may seek to enforce custody or visitation orders.

The bill becomes operative January 1, 2004.

**Explanation of amendments, if any:**

The committee amendment (AM 0530) makes minor drafting changes to harmonize the terminology of the uniform act with the terminology used in Nebraska statutory law.

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**Senator Kermit A. Brashear, Chairperson**